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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/599,545	04/02/2008	Jean Pierre Giraud	62357.023806 (CSP-0112US)	1550
32361	7590	06/22/2010	EXAMINER	
GREENBERG TRAURIG, LLP MET LIFE BUILDING 200 PARK AVENUE NEW YORK, NY 10166			KUMAR, RAKESH	
			ART UNIT	PAPER NUMBER
			3651	
			NOTIFICATION DATE	DELIVERY MODE
			06/22/2010	ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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<b>Office Action Summary</b>	<b>Application No.</b> 10/599,545	<b>Applicant(s)</b> GIRAUD, JEAN PIERRE	
	<b>Examiner</b> RAKESH KUMAR	<b>Art Unit</b> 3651	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 29 September 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 September 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>09/29/2006</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Drawings***

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description:

The specification recite Figures 1-7 wherein each figure comprises a Figure part A and a Figure part B, which are not labeled in the drawings. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "2" has been used to designate both a door, a plug and a lid, and reference character "3" has been used to designate both a seal, a plug and a lid;

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character 1,2 and 3 have been used to designate different parts in different Figures. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the “a securing mechanism located on both the container and the lid” as recited in claim 1 on line 12 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 1 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Referring to claim 1. The applicant recites the limitations "the lid" in line 5 in claim 1. It is unclear as to whether "the lid" is the same element as the "lid assembly" recited in line 2. It is suggested the limitations "the lid" be amended to read --the lid assembly--. Appropriate action is required.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3,5,6,8,9,12,13 are rejected under 35 U.S.C. 102(b) as being anticipated by Schorner (US 6,409,034).

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Referring to claims 1,5,6,8,9,12,13. Schorner discloses a method of dispensing at least one article form comprising the steps of:

opening a resealable container (10) and lid assembly (18), wherein the container (10) comprises a reservoir for storing articles (within the container 10) and an opening (16) for dispensing individual articles;

the opening (16) further comprises an elastomeric seal (Col. 6 line 17) that is at least partially located circumferentially around the opening (16);

the lid (18) comprises a plug (34) that is integrally attached to an inner portion (32) of the lid (18) and the lid (18) consists of a hinge (28) attached to the container that functions to rotate the lid at one pivot point (see Figure 1);

dispensing at least one solid dosage form from the reservoir of the container and through the opening (16);

applying a sufficient pressure upon an outer portion of the lid (18) so that the plug (34) engages the elastomeric seal (14) of the opening (16);

maintaining the sufficient pressure by a securing mechanism (including member 24 and 22) located on both the container (10) and the lid (18) to form a substantially moisture-tight seal between the plug (34) and the elastomeric seal (14) of the opening (16);

opening the resealable container (10) and lid (18) assembly by removing the sufficient pressure;

dispensing at least one solid dosage form the reservoir of the container (10) and through the opening (16);

again applying a sufficient pressure (Col. 2 line 59- Col. 3 line 7) upon an outer portion of the lid (18) so that the plug (34) engages the elastomeric seal of the opening(14 and 16); and

maintaining the sufficient pressure by a securing mechanism (including member 24 and 22) located on both the container (10) and the lid (18) to form a substantially moisture-tight seal between the plug (34) and the elastomeric seal of the opening (16).

Referring to claim 2. Schorner discloses a method of dispensing at least one article form comprising the steps wherein, when the plug (34) engages the elastomeric seal (14), a top portion of the plug (34) contacts the a top portion of the elastomeric seal (14).

Referring to claim 3. Schorner discloses a method of dispensing at least one article form comprising the steps wherein, when the plug (34) engages the elastomeric seal (14), at least a portion of the plug (34) passes through the opening (16) such that an outer side portion of the plug (34) contacts at least partially a portion of the elastomeric seal (14 and 16; see Col. 6 line 14).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.



Claims 10,11 are rejected under 35 U.S.C. 103 (a) as being unpatentable over Schorner.

Referring to claims 10,11. Schorner discloses all claimed limitations of claim 4 however Schorner does not specifically disclose the solid dosage forms dispensed as being diagnostic test strips.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the teachings of Schorner to have included the article to be dispensed as being diagnostic test strips because the dispenser would be more functional and would be able to house different types of articles thus increasing sales.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4,7 are rejected under 35 U.S.C. 103 (a) as being unpatentable over Schorner in view of DeVries (US 7,055,686).

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Referring to claims 4,7. Schorner discloses all claimed limitations of claim 4 however Schorner does not specifically disclose a plug engages a foil of the opening to form a foil seal.

DeVries discloses a dispenser (Figure 5B) wherein the opening further comprises a foil (176) that at least covers the opening and when sufficient pressure is applied upon an outer portion of the lid (152), the plug (174) engages the foil (176; Figure 5B) of the opening to form a foil seal.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the teachings of Schorner to have included a foil seal as taught by DeVries because the foil seal would provide a better seal for the apparatus.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to RAKESH KUMAR whose telephone number is (571) 272-8314. The examiner can normally be reached on M-F 8 AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene Crawford can be reached on (571) 272-6911. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Gene Crawford/  
Supervisory Patent Examiner, Art  
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/RAKESH KUMAR/  
Examiner, Art Unit 3651